

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Transfer CMP.No.420 of 2016

and CMP.No.11102 of 2016

T.Jayashree Petitioner

Vs

S.Madhavan Respondent

Prayer: Transfer Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer HMOP.No.289 of 2016 on the file of the Sub Court, Tambaram to the file of Sub Court, Madurantakam.

For Petitioner : Mr.Vineet Subramani

For Respondent :Mr.Lenin

for M/s. Lenin & Bhagya

ORDER

The respondent in HMOP.No.289 of 2016 is the petitioner in the transfer petition.

2. The respondent instituted proceedings in HMOP.No.289 of 2016 before the Sub Court at Tambaram praying for a decree of divorce. The petitioner on the other hand filed the proceedings in HMOP.No.22 of 2016 before the Sub Court at Maduranthakam, invoking Section 9 of Hindu Marriage Act, 1955. Both the proceedings are pending before the respective Courts.

3. The petitioner seeks transfer of HMOP.No.289 of 2016 to the Sub Court at Maduranthakam for trial along with HMOP.No.22 of 2016.

4. The learned counsel for the respondent submitted that the respondent would be put to difficulty, in case the proceedings in HMOP.No.289 of 2016 is transferred to the Sub Court at Maduranthakam.

5. There are two proceedings pending before two different Courts. The divorce proceedings is pending before the Sub Court at Tambaram. The petition filed by the petitioner for restitution of conjugal rights is pending before the Subordinate Court at Maduranthakam.

6. Section 19(iii-a) of the Hindu Marriage Act, permits

the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

7. The proceedings for divorce and the other proceedings for restitution of conjugal rights are pending before two different Courts. In case the matters are taken up by two different Courts, there is a possibility of passing contradictory orders. I am therefore of the view that the matter requires transfer.

8. In the result, the proceedings in HMOP.No.289 of 2016 is withdrawn from the file of Sub Court at Tambaram and is transferred to the file of Sub Court at Maduranthakam for trial along with HMOP.No.22 of 2016.

9. The transfer petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

10. In view of the difficulties expressed by the learned counsel for the respondent, liberty is given to the respondent to file an application before the trial Court to dispense with his personal appearance on the normal dates of hearing, subject to the condition that he would appear on all the effective dates of hearing. If any such application is filed, the learned trial Judge shall consider the request, taking into account the difficulties expressed by the respondent.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To:

1.The Subordinate Judge,
Tambaram.

2.The Subordinate Judge,
Madurantakam.

+1 cc to mr.Vineet Subramani, advocate,sr.54961.

Ev(co)
krd 24/10

Transfer CMP.No.420 of 2016